

24 November 1976

MEMORANDUM FOR: Chief, Plans Staff/OP

FROM :
Chief, Special Activities Staff

SUBJECT : Revisions of

STAN:

You asked for our views of your starter version of
 This may date me but it reminds me of eating out
of half of a mess kit and the "chef" placing the meat,
potatoes, vegetables, gravy and a peach all in one pile.
I believe that we should get together and talk about
Some things I have in mind will need policy decisions and
others could perhaps be taken care of editorially. I'm
at your disposal.

Copies to

Approved For Release 2005/07/26 : CIA-RDP82-00357R000200120033-5


DO PERS,

11 Nov 76


STAT



The attached redraft reflects our discussion of on 1 Dec.

I have consolidated procedures for involuntary separation, per  suggestion.

STAT

I have not included anything pertaining to suspension, as that might be handled in .

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I still retain the wording about termination of contract because it is a feature of contract law that the contract itself should govern termination. The contract could include a clause providing for separation in cases parallel with the regulations.

The reference to mandatory retirement has been dropped.

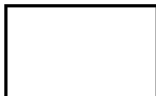
Disability is now covered either under retirement generally or under medical termination.

The section on selection out is included but should be plugged in as a policy item.

A covering memo to the EAG.

I have standardized on the term "excess" rather than "surplus". Both terms exist in the current regulations. Although the current regulation refers to regulation to accept other law Congress without a break in service, the FPM says no resignation is required. The wording is changed accordingly. Transfer with overlapping rights is added as a provision that may help the IC situation. It conforms to the FPM.

STAT



major point — rankings.

p. 6.

Have not used selection out as reason.
If we do, we need to use rankings.

*

Lott would not like to separate the basis of low
rankings.

Lott — would prefer to say in court (under oath),

Selection out must show the ego keys.

p. 6. Would prefer not to address validity of intent.

Unsuitability does not equal poor work performance
Suitability — conduct ability.

Differentiate conduct

Competency (performance).

Focus on contract termination.

Best supplier + non-supplier procedures.

STAT



- (c) Upon receipt of a recommendation from a Head of Career Service, or from any other Agency official authorized to make recommendations that an employee be separated, or on the basis of his own review of a personnel problem situation, the Director of Personnel or his designated representative will confirm to the employee that he is being considered for separation, and will extend to him an opportunity to submit a written statement or to comment orally within 10 days,
- (d) If the Director of Personnel decides not to recommend termination of the individual's employment following his review of the case, he will consult the Head of the Career Service as to another course of action. If the Director of Personnel concludes that termination of the individual's employment is to be recommended, he will advise the employee of that fact and forward the case to the Director of Central Intelligence for decision. In this event, the Director of Personnel will also notify the individual that he may file a written appeal of the termination recommendation with the Director within 10 days.
- (e) Pursuant to his statutory authority, the Director may separate an employee immediately when he deems such action necessary or advisable in the interests of the United States. To the extent consistent with the interests of the United States, the procedures set forth in the subparagraphs immediately above will normally be followed, although in certain cases they may

manpower requirements of his directorate or independent office as well as the employee's performance, nature of service, qualifications, and grade.

- (b) The Deputy Director or Head of an Independent Office shall forward any declaration made pursuant to subparagraph _____ above to the Director of Personnel who shall inform the employee in writing of his right to submit within 10 days a request to be heard orally by an appropriate officer of the Office of Personnel or to state in writing to the Director of Personnel why he should not be declared excess to his directorate or independent office or to provide any other information he deems relevant. After appropriate review including consideration of any statements or any information provided by the employee, the Director of Personnel may request the Deputy Director or Head of an Independent Office to reconsider the declaration of an employee as excess.
- (c) The Director of Personnel shall review the qualifications and background of an employee declared excess to the manpower requirements of a directorate or independent office with a view toward placing him elsewhere in the Agency at the same or different grade. As part of this review process, the employee shall be interviewed by an appropriate officer of the Office of Personnel.
- (d) If the Director of Personnel is unable to assign elsewhere in the Agency an employee who has been declared excess to the manpower requirements of a directorate or independent office,

he shall recommend to the Director of Central Intelligence that the Director of Central Intelligence (1) declare the employee surplus to the Agency; (2) terminate the employee's employment, utilizing his authority under section 102(c) of the National Security Act of 1947, as amended; and (3) establish the effective date of such termination. The Director of Personnel shall notify the employee in writing of this action and of the employee's right to present through the Director of Personnel to the Director of Central Intelligence within 10 days any information in writing concerning why his employment should not be terminated and any other information he deems relevant.

(e) Upon receipt of a recommendation by the Director of Personnel to declare an employee surplus to the Agency, to terminate his employment, and to establish the effective date of such termination, the Director of Central Intelligence may take one of the following actions:

- (1) Declare the employee surplus to the Agency, terminate his employment pursuant to section 102(c) of the National Security Act of 1947, as amended, and establish the effective date of such termination. Such effective date shall be not less than 30 days after the Director of Central Intelligence has taken action to terminate his employment.
- (2) Disapprove in whole or in part the recommendation of the Director of Personnel.

- (f) The Director of Personnel shall notify the employee in writing of the decision of the Director of Central Intelligence.
- (g) The provisions of this paragraph do not limit in any way the authority of the Director of Central Intelligence under section 102(c) of the National Security Act of 1947, as amended, and as implemented [] Further, this paragraph shall not affect the responsibility and authority of the Director of Central Intelligence to remove, demote, or reassign any employee whose conduct or performance warrants such action. STAT

(2) OTHER INVOLUNTARY

- (a) Whenever a Head of Career Service proposes to recommend the separation of an employee under his jurisdiction, he or his representative will first review the case with the Director of Personnel or his designated representative, who, if appropriate, will review the case with the Director of Security or the Director of Medical Services to identify relevant security or medical factors.
- (b) When a case is referred to the Director of Personnel with a recommendation that an employee be separated, the Head of Career Service or his representative will advise the employee concerned and inform him of the reasons for the recommended separation.

- c. ~~TERMINATION OF CONTRACT.~~ The conditions governing renewal or nonrenewal of a contract for a nonstaff employee are governed by the terms of the contract.
- d. ~~TERMINATION OF EMPLOYMENT FOR UNSUITABILITY.~~ Termination of employment may be proposed on the grounds of unsuitability arising from such situations as:
- (a) failure to meet the work and efficiency requirements of the Agency;
 - (b) failure to meet Agency security standards;
 - (c) inability to meet Agency medical standards;
 - (d) abandonment of position;
 - (e) insubordination;
 - (f) inattention to duty;
 - (g) poor attendance;
 - (h) misuse of official funds;
 - (i) a criminal act;
 - (j) personal misconduct;
 - (k) other evidence of unsuitability.
- Should be
signature para* →
- 715-7*

For these purposes some key definitions are:

- (1) WORK AND EFFICIENCY. An employee who fails to meet the work and efficiency requirements of his Career Service or fails to adequately perform the duties of the position to which he is assigned should be considered for separation from that Career Service and possibly the Agency. If the Deputy Director or ^{Head of Independent Office} ~~Head of Career Service~~ having jurisdiction concludes that the individual should be separated from the particular Career Service, he will forward the case with

all pertinent documentation to the Director of Personnel for further processing as set forth in subparagraph __ below.

(2) SECURITY AND MEDICAL STANDARDS. The Director of Security and the Director of Medical Services will make appropriate recommendations to the Director of Personnel when an employee does not meet Agency security or medical standards.

STAT (3) STANDARDS OF CONDUCT. The Agency standards of employee conduct are prescribed [redacted] Deputy Directors will ensure that appropriate officials take or initiate corrective or disciplinary action as necessary or, if warranted, forward a recommendation for separation to the Director of Personnel if an employee fails to meet Agency standards of conduct. Whenever the Director of Personnel is informed that an employee has failed to meet Agency standards of conduct, he will, if the matter is of a serious nature, review the case with the Deputy Director responsible for the employee's organization of assignment and the Head of the employee's Career Service, if different. He may, in coordination with the Deputy Director concerned, conduct an investigation if this is required. If the Director of Personnel concludes that the individual should be separated, he will forward his recommendation [redacted] with appropriate documentation through the Deputy Director concerned with the employee's organization of assignment and the Head of the employee's Career Service, and if appropriate, to the Director of Central Intelligence.

Suspension of employee during investigation